

342.610 Liability for compensation -- Contractor and subcontractor -- Limitation of liability if employee intended to kill or injure self or another -- Illegal substances -- Employer's intention to produce injury or death -- Builder's proof of coverage required for issuance of building permit -- Notice required to be posted by employers.

- (1) Every employer subject to this chapter shall be liable for compensation for injury, occupational disease, or death without regard to fault as a cause of the injury, occupational disease, or death.
- (2) A contractor who subcontracts all or any part of a contract and his or her carrier shall be liable for the payment of compensation to the employees of the subcontractor unless the subcontractor primarily liable for the payment of such compensation has secured the payment of compensation as provided for in this chapter. Any contractor or his or her carrier who shall become liable for such compensation may recover the amount of such compensation paid and necessary expenses from the subcontractor primarily liable therefor. A person who contracts with another:
 - (a) To have work performed consisting of the removal, excavation, or drilling of soil, rock, or mineral, or the cutting or removal of timber from land; or
 - (b) To have work performed of a kind which is a regular or recurrent part of the work of the trade, business, occupation, or profession of such personshall for the purposes of this section be deemed a contractor, and such other person a subcontractor. This subsection shall not apply to the owner or lessee of land principally used for agriculture.
- (3) Liability for compensation shall not apply to injury, occupational disease, or death to the employee if the employee willfully intended to injure or kill himself, herself, or another.
- (4) If an employee voluntarily introduced an illegal, nonprescribed substance or substances or a prescribed substance or substances in amounts in excess of prescribed amounts into his or her body detected in the blood, as measured by a scientifically reliable test, that could cause a disturbance of mental or physical capacities, it shall be presumed that the illegal, nonprescribed substance or substances or the prescribed substance or substances in amounts in excess of prescribed amounts caused the injury, occupational disease, or death of the employee and liability for compensation shall not apply to the injury, occupational disease, or death to the employee.
- (5) If injury or death results to an employee through the deliberate intention of his or her employer to produce such injury or death, the employee or the employee's dependent as herein defined shall receive the amount provided in this chapter in a lump sum to be used, if desired, to prosecute the employer. The dependents may bring suit against the employer for any amount they desire. If injury or death results to an employee through the deliberate intention of his or her employer to produce such injury or death, the employee or the employee's dependents may take under this chapter, or in lieu thereof, have a cause of action at law against the employer as

if this chapter had not been passed, for such damage so sustained by the employee, his dependents or personal representatives as is recoverable at law. If a suit is brought under this subsection, all right to compensation under this chapter shall thereby be waived as to all persons. If a claim is made for the payment of compensation or any other benefit provided by this chapter, all rights to sue the employer for damages on account of such injury or death shall be waived as to all persons.

- (6) Prior to issuing any building permit pursuant to KRS 198B.060(10), every local building official shall require proof of workers' compensation coverage from the builder before a permit is issued. A person who is exempt under the exception contained in KRS 342.650(2), and any contractor otherwise exempt from this chapter, shall so certify to the local building official, in writing and on a form prescribed by the commissioner, in lieu of providing proof of workers' compensation coverage.
- (7) Every employer subject to this chapter, at its principal office and such other locations where employees customarily report for payroll and personnel matters, shall post a notice stating the name of its workers' compensation insurance carrier and policy number, setting forth the means to access medical care for injuries, the employee's obligation to give notice of accidents, and such other matters concerning the employee's rights under this chapter as may be required by the commissioner so as to afford every employee the opportunity to become informed about the employer's workers' compensation program. The format and contents of the notice shall be established by the commissioner through administrative regulation, and copies shall be provided to the employer by its insurance carrier.

Effective: July 14, 2018

History: Amended 2018 Ky. Acts ch. 40, sec. 11, effective July 14, 2018. -- Amended 2010 Ky. Acts ch. 24, sec. 1835, effective July 15, 2010. -- Amended 1996 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 27, effective December 12, 1996. -- Created 1972 Ky. Acts ch. 78, sec. 1, effective January 1, 1973.